

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Administration of the
North American Numbering Plan
Carrier Identification Codes
(CICs)

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CC Docket No. 92-237

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REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. hereby files these Reply Comments, on behalf of itself and its subsidiaries (collectively referred to as "SBC"), in response to Comments filed by various parties¹ in the above-referenced proceeding relating to the application and use of Feature Group D Carrier Identification Codes ("CICs").² Specifically, these Reply Comments address two issues: (1) recognition that the voluntary industry open forum process should continue to be used to address future issues relating to CIC administration and; (2) the need to recognize flexibility with regard to the definition of "entity" as such relates to affiliates subject to FCC-imposed structural separation.

¹ Comments in this proceeding were filed on March 6, 1998 by the following parties: SBC Communications Inc. ("SBC Comments"); BellSouth Corporation ("BellSouth Comments"); U S WEST, Inc. ("U S WEST Comments"); Ameritech ("Ameritech"); PrimeCo Personal Communications, L.P. ("PrimeCo Comments"); GTE Service Corporation ("GTE Comments"); MCI Telecommunication Corporation ("MCI Comments"); AT&T Corporation ("AT&T Comments"); and IXC Long Distance Inc. ("IXC Comments").

² In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), CC Docket No. 92-237, Further Notice of Proposed Rulemaking and Order, FCC 97-364 (Oct. 9, 1997) ("FNPR").

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I. THE FCC SHOULD ALLOW THE ESTABLISHED OPEN FORUM PROCESS TO CONTINUE TO RESOLVE ISSUES PRESENTED IN RELATION TO CIC ASSIGNMENT AND USE.

SBC strongly supports the position taken by BellSouth and Ameritech that the open industry forum process, more specifically, the Industry Number Committee ("INC") , should continue to be utilized in addressing issues relating to CIC administration.³ As SBC discussed in its Comments, the codification of CIC assignment guidelines is inconsistent with the objectives of the Telecommunications Act and the Commission's prior rulings.⁴ The Commission's stated rationale for imposing direct Commission administration, i.e. "[t]he recent increased demand for CICs and the changing competitive environment",⁵ does not justify the replacement of a process which has worked successfully.

SBC agrees with NANC that the voluntary industry consensus approach continues to be the best method for addressing the assignment of North American Numbering Plan (NANP) resources, including CICs. The open forum process provides all interested parties due process and the opportunity to directly and meaningfully participate in decisions affecting the industry. While in this particular proceeding, SBC believes the Ad Hoc Committee did an excellent job in reaching industry consensus, such results are not likely to be the case in all instances. There are many companies with an interest in CIC matters that are not represented on NANC nor do all companies have the resources to provide representation on an Ad Hoc Committee. Yet, these entities do participate in INC . Moreover, the open forum process allows other companies who

³ BellSouth Comments, pp.3-4; Ameritech Comments, pp. 2-4.

⁴ SBC Comments, pp.2-3.

⁵ FNPR para.10.

are affected by CIC determinations to voice their concerns and present possible solutions to problems facing the industry as a whole. It should be noted that while the Ad Hoc Committee in this proceeding did reach a result acceptable to most carriers, the Committee did not include any wireless companies or switch manufacturers, entities which in an open industry forum could have expressed their views and contributed in determining the direction of CIC assignment administration. A further risk in the FCC submitting administrative issues on a routine basis to a NANC Ad Hoc Committee is that this alternative would create an opportunity for forum shopping, particularly in situations where an industry segment not represented on NANC would oppose the supplicant's position. This exclusive approach could be used to further the aims of a single entity to the detriment of the industry. SBC cautions the FCC against referring future issues on a routine basis to NANC and strongly encourages the continued utilization of the established open forum process where the issues being addressed would benefit from broad industry knowledge. While the open industry forum process in certain instances may be more time-consuming, it safeguards against ill-judged decisions being finalized without all aspects of their industry impact being considered.

II. IF THE COMMISSION BELIEVES IT NECESSARY TO CODIFY THE DEFINITION OF "ENTITY" IN THESE PROCEEDINGS, IT SHOULD DIFFERENTIATE BETWEEN AFFILIATES SUBJECT TO FCC-IMPOSED STRUCTURAL SEPARATION.

SBC agrees with BellSouth and Ameritech that the definition of the term "entity" would be better addressed by the experience and expertise of INC.⁶ However, recognizing that the Commission may choose to resolve this issue, SBC joins the overwhelming majority of the Commentors in endorsing the NANC definition.⁷ Only AT&T rejects the NANC

⁶ BellSouth Comments, p.4; Ameritech Comments, p. 4, Footnote 2.

⁷ U S WEST, p.3; PrimeCo Comments p.1-4; GTE Comments p.6; MCI Comments, p. 4-6.

recommendation as well as the Commission's proposal.⁸ AT&T's deviation from the rest of the industry is somewhat confusing. What is clear is its intent to place any future 272 and 274 BOC affiliates at a competitive disadvantage by denying them the right to be viewed as a separate entities for purposes of CIC assignment. In seeking to do so, it raises the unsubstantiated specter of unlawful conduct on the part of a BOC if separate affiliates receive their own CICs or if they are permitted to share CICs with the BOC, a "damned-if-you-do, damned-if you-don't" argument. Buried in Footnote 2 of its Comments is AT&T's preposterous claim that "the BOC could put its most profitable customers in a particular affiliate with its own CIC code, and then would give preferential service to that CIC."⁹ Neither the logistics of this fantastic scenario nor how such a situation could transpire given regulatory safeguards is ever explained; AT&T simply makes the unsubstantiated accusation that if this quixotic hypothetical transpired, it would constitute discriminatory conduct. On the other hand, AT&T asserts that if the sharing of a CIC "...allows information sharing, particularly among a BOC and its Section 272 and 274 affiliates, the nondiscrimination requirements applicable to those relationships must be strictly enforced." AT&T does not identify what type of information it is referencing or whether it views the mere sharing of a CIC to cross the line of potential improper conduct.

The Commission should not allow these red-herring arguments to distract it from the need to clarify the definition of "entity" to treat the BOCs and their legally required separate affiliates as distinct entities for purposes of CIC assignment. As discussed by SBC in its

⁸ AT&T Comments, p.10-11.

⁹ AT&T Comments, p. 11.

Comments,¹⁰ other companies can offer local, wireless and long-distance service on an efficient, integrated basis, and can easily coordinate the use of a limited number of CICs between their various divisions. Because they can share facilities and networks, they can share traffic and have little need of additional CICs to keep traffic separate. In the case of SBC, however, it must differentiate between the traffic of three networks. Moreover, it is unclear to SBC whether under the Commission's structural separation rules, the BOC affiliates could lawfully share CICs; certainly, as AT&T's Comments would indicate, it would be difficult and complicated to do so. For these reasons, SBC again urges the Commission to adopt the NANC proposed definition of "entity" with the proviso that multiple affiliates and/or subsidiaries within a firm or group of firms which are required by law and/or regulation to operate as structurally separate telecommunications service providers shall be considered separate entities for the purposes of CIC assignment eligibility.

In addition, SBC again strongly supports the "exception" process proposed by the Commission to address circumstances in which two or more SBC affiliates provide competitive services. While AT&T claims that such a scenario could not transpire,¹¹ wireless long-distance and wireline long distance offerings by separate affiliates is foreseeable if not already in existence. The separate assignment of CICs is clearly warranted if competition in these areas is to flourish.

III. CONCLUSION

SBC continues to urge the Commission to acknowledge the value of an open forum industry approach in resolving future issues related to CIC assignment and use. Although in this


¹⁰ SBC Comments, pp.5-8.

¹¹ AT&T Comments, pp.10-11.

proceeding the NANC Ad Hoc Committee did an admirable job in reaching an industry consensus, the forum provided through INC allows all industry participants to be heard as part of the process. SBC further asserts that the definition of "entity" proposed by the Ad Hoc Committee should be adopted with the caveat that the definition must also recognize the legal restrictions and obligations imposed on the BOCs in relation to structurally separate affiliates. Subject to these modifications, SBC encourages the Commission to adopt the industry consensus reflected in the Ad Hoc Committee recommendations.

Respectfully submitted,

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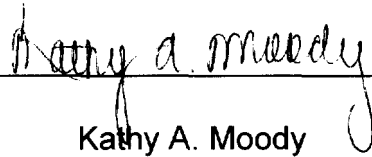
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April 3, 1998

CERTIFICATE OF SERVICE

I, Kathy A. Moody, hereby certify that the "Comments of SBC Communications, Inc." have been served on April 3, 1998, to the Parties of Record.


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April 3, 1998

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